

GOVERNMENT OF TELANGANA

ABSTRACT

Ease of Doing Business – Labour Department – Third Party Audit Scheme for Medium Risk Industries / Establishments in accordance with the norms of Ease of Doing Business – Notification – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No.47,

Dated: 10.06.2016.

Read:-

From the Commissioner of Labour, Telangana, Hyderabad,
Lr.No.C2/2566/15, dated: 3.6.2016.

ORDER:

In the circumstances reported by the Commissioner of Labour, Telangana, Hyderabad in the letter read above, the Government of Telangana hereby decided to introduce Third Party Audit Scheme for Medium Risk Industries / Establishments in accordance with the norms of Ease of Doing Business.

2. Accordingly, the following notification will be published in an Extraordinary Issue of the Telangana Gazette dated: 16.06.2016.

3. The Commissioner of Labour, Telangana, Hyderabad shall take further action accordingly.

NOTIFICATION

The Government of Telangana hereby introduce Third Party Audit Scheme for Medium Risk Industries / Establishments in accordance with the norms of Ease of Doing Business as follows:-

THIRD PARTY AUDIT SCHEME

(1) Third Party Auditor Firms

(a) Duties &responsibilities:

- (i) To conduct audit under all labour laws covered during compliance inspections by labour inspectors when approached by any unit/establishment / employer which comes under medium risk category for third party Audit.
- (ii) To conduct the audit in compliance with relevant provisions and international best practices in social audit such as Business Social Compliance Initiative (BSCI), SA8000 auditor certification and the SMETA (Sedex Members Ethical Trade Audit) standard developed by Sedex.
- (iii) To prepare an Audit report detailing status of compliance based on checklist provided.
- (iv) The Empanelled Third Party Firm should submit copy of the official receipt of the fees received for the Audit, issued by the establishment along with the Audit Report in a sealed Envelope / Online to the concerned regional authorized authority within 15 days of the last day of audit visit.
- (v) The categorization of Medium Risk establishment / employers is as per orders issued in G.O.Ms.No.38, L.E.T.& F (Labour) Department, dated: 24.05.2016 which can be viewed in labour.telangana.gov.in.

Contd...2

(b) Eligibility of the Firm:

- i. The Firm should be registered body corporate in India under appropriate legal frame work, such as Companies Act or LLP Act.
- ii. The Firm should be registered with Labour Department, (under the Telangana Shops and Establishment Act.)
- iii. The Firm should preferably have experience of undertaking and evaluating establishments for labour regulatory compliance.
- iv. The Firm should have Labour Law Auditor and Technical Auditor having suitable eligibility on company pay roll.

(C) Eligibility of Labour Law and Technical Auditor:

i. Labour Law Auditor

1. Should have passed an Interview conducted by a committee constituted by Commissioner of Labour, Telangana.
2. Should have a minimum of 7 years of experience under Labour Laws
OR
Should have a minimum of 7 years of experience as a legal practitioner under Labour Laws
OR
Should have served as Assistant Commissioner of Labour or above for 7 years.
3. Should not currently be a part-time / full-time employee in any unit / Establishment in the State of Telangana or its subsidiaries or branches else where in the country.
4. Should not be of an age more than 65 years as on 1st April, 2016.
5. Should be medically fit to carry out inspection procedure.

ii. Technical Auditor

1. Should have passed an Interview conducted by a committee constituted by Commissioner of Labour, Telangana.
2. Should have:
 - (a) One year fulltime Diploma in Industrial Safety recognized by the Board of Technical Education or All India Council of Technical Education or recognized university; and
 - (b) Either of the following qualification
 - (i) Degree in branch of Chemical, Mechanical, Electrical, Electronics, Automobile or Production Engineering and having five years experience in manufacturing, maintenance, design, project or safety department in the supervisory or above capacity in factories;
OR
 - (ii) Diploma in branch of Chemical, Mechanical, Electrical Electronics, Automobile or Production branch Engineering and having seven years' experience in manufacturing, maintenance, design, Project or safety department in the supervisory or above capacity in factories;
OR

(iii) Degree of Bachelor of Science with Physics and / or Chemistry and having ten years' experience in manufacturing or Safety Department of any factory in the supervisory or above capacity in factories;

3. Should not currently be a part-time/full-time employee in any unit/establishment in the State of Telangana or its subsidiaries or branches elsewhere in the country.

4. Should not be of an age more than 65 years as on 1st April, 2016.

5. Should be medically fit to carry out inspection procedure.

(d) Security Deposit:

(I) The empanelled third party auditor shall submit the refundable Security Deposit for 2 years in Department of Labour from a scheduled / Nationalized bank through DD drawn in favour of the Commissioner of Labour, Telangana, Hyderabad for an amount of Rs.1 Lakh (Rupees one lakh only).

(II) The full security deposit shall be forfeited if any observations or non-compliance are found grossly false in the Audit Report.

(III) The Security deposit shall be refundable on completion of tenure of empanelment of Auditor firm, without any observations by the Departmental Inspectors or as per the performance evaluation by the Standing Committee formed by Labour Commissioner. The same may also be adjusted towards security deposits payable for renewal of empanelment. No interest will be payable on the security deposit.

(e) Empanelment, Performance evaluation and extension of tenure:

(i) The empanelment of the Third Party Auditor Firm shall be done by the Commissioner of Labour after referring the application for empanelment to the standing committee and obtaining its report and will be valid for the duration of (2) years from the date of empanelment.

(ii) Any Audit report submitted by the empanelled Third Party Auditor Firm beyond the empanelment period will not be accepted.

(iii) The subsequent extension of empanelment will be decided by Commissioner of Labour on the basis of evaluation by the Standing Committee depending on the history of performance.

(iv). The Standing Committee will evaluate the performance of the empanelled Third Party Audit Firms in the last quarter of the second year or whenever there are any compliance issues observed or whenever the Commissioner of Labour has reason to evaluate, to be recorded in writing, due to reasons such as:

1. Contradiction or discrepancies observed in report filed by third party auditors;

2. Firm charging more than the reasonable fees for audit; and/or

3. Firm involved in act of bribery; and/or

4. Firm not submitting audit report within prescribed time-limit without assigning a satisfactory reason; and/or

5. Firm revealing any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;

6. If found guilty, in case of complaint(s)

(v) For the purpose of performance evaluation, the standing committee constituted by Commissioner of Labour will analyse the reports submitted by the audit firm and submit its report to the Commissioner of Labour within 15 working days from the date of submission of request by the firm for extension of tenure for another term of 2 years.

(vi) After the review of standing committee's report, if the Empanelled Third Party is found to be non-compliant in delivering the services or misrepresenting fact(s) in the audit report, the Commissioner of Labour may, on his discretion, cancel the empanelment of third party audit firm and forfeit the Security Deposit submitted. Further the individual Auditors involved will be blacklisted.

(vii) This procedure and penalty shall be in addition to other judicial recourse available under the laws of the state/country.

(viii) if the performance evaluation by the standing committee is found to be satisfactory in its report to the commissioner of Labour, the Commissioner will grant extension of tenure for 2 years.

(ix) if the Third party Auditor firm wishes to discontinue from the empanelment before expiry of the empanelment period the security deposit will be refunded duly imposing a cut of 10 % provided the performance evaluation by the standing committee is found to be satisfactory.

(2) Standing committee:

Standing Committee shall be constituted with the following members, and it will conduct Interviews for Labour Law & Technical auditors & evaluate the performance of empanelled Third Party Audit firms:

(1) Joint Commissioner of Labour, Head Office

(2) One Joint Commissioner of Labour from the field

(3) One Deputy Commissioner of Labour, Head Office

(4) One Deputy Commissioner of Labour from field

(5) One Assistant Commissioner of Labour from field

The tenure of the committee would be three years from date of appointment by the Commissioner of Labour.

(3) Establishments / Employers

a. Enrolment under Third Party Audit Scheme:

(i) All the Medium Risk Establishments /employers, as defined in G.O.Ms.No.38, L.E.T. & F (Labour) Department Dated: 24.05.2016 who do not figure in the non-compliant establishments list shall be eligible for opting for this scheme.

- (ii) The scheme shall cover compliance and audit requirements as applicable for all the Inspections under various Labour Laws through single joint inspection as specified in G.O.Ms.No.31, LET&F (Lab) Department, dated: 10.12.2015 amended from time to time.
- (iii) Under the above Scheme, the application for inclusion under the Scheme shall be made ONLINE as per Annexure-I addressed to the authorized authority of concerned region.
- (iv) On successful submission of Application, the establishment will be deemed to be enrolled under the scheme. The Third Party Audit Report shall be submitted within 90 days, failing which the establishment will be unenrolled from the scheme. Further they will be debarred for opting for this scheme for a period of 2 years. The responsibility for submission of Third party audit report lies on the establishment / employer.
- (b) Audit report submitted by the Third party Auditors will be treated as preliminary compliance of inspection procedure. In case of non-compliance with any Labour Law as per the Audit Report, department will issue a notice stating to comply within 15 days' time.
- (c) The employer will be a required to take corrective action and upload compliance report within 15 days. The Jurisdictional Authorized Officer will scrutinize the compliance report to see if compliance is made. Immediate and follow up action on the violations / irregularities shall be ensured if the employer fails to comply even after providing opportunity as at (b).
- (d) It is be emphasized that this the department reserves the right to inspect any establishment / employer when ever there are any compliance issues observed or whenever the Commissioner of Labour has reason to be informed in writing, for getting inspection conducted.
- (e) If any establishment / employer is found to be non-compliance with Labour Laws during inspection or evaluation of compliance report, such firm will be put in the non-compliance establishments list and will continues to remain so till it is found to be in full compliance after the conduct of next compliance inspection by the Department.
- (f) if on scrutiny of the audit report, the establishment / employer is found be in-compliance of the labour laws, he will be exempted from compliance inspection by the department for a period of 2 years from the date of enrolment.
- (g) The establishment / employer can opt to continue under the scheme by renewing the enrolment ONLINE before the expiry of enrolment period. The period of enrolment will start from the next day after the 2 years period of the previous enrolment and the audit report will be required to be submitted within (90) days of the date of renewal of enrolment.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

AHMAD NADEEM,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To
The Commissioner of Labour, Telangana, Hyderabad.

Copy to:

The Commissioner of Printing, Stationery and Stores Purchases (PW), Chanchalguda, Hyderabad (for publication in the Gazette and supply of 500 copies to the Commissioner of Labour, Telangana, Hyderabad and 20 copies to Government)

:: 6 ::

The Industries and Commerce Department
The PS to Addl. Prl. Secy to CM, CM Office, Hyderabad.
The P.S. to Hon'ble Minister (Home & Labour)
The P.S. to Principal Secretary to Govt., LET&F Department
SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

ANNEXURE TO G.O.MS.NO.47, L.E.T. & F(LAB) DEPARTMENT,
DATED:10.06.2016

OPTION FOR ENROLLING UNDER THIRD PARTY AUDIT SCHEME

1. Name of the Establishment/Unit :
2. Name of the Employer :
3. Applicable Act :
4. Registration number under the applicable Act:
5. Number of workers :
6. Category based on Risk Assessment :
7. Details of previous inspection :

I hereby undertake to state that I am the employer of _____
and wish to opt for third party audit scheme for my establishment.

AHMAD NADEEM,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)